

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

CRYSTAL GOOD, et al.,
Plaintiffs

v.

WEST VIRGINIA-AMERICAN WATER
COMPANY,
et al.,
Defendants.

Civil Action No. 2:14-CV-01374
Hon. John T. Copenhaver, Jr.

Consolidated with:
Civil Action No. 2:14-CV-13164
Civil Action No. 2:14-CV-11011
Civil Action No. 2:14-CV-13454

CLASS ACTION

**APPLICATION FOR APPROVAL TO PAY INDIVIDUAL REVIEW OPTION CLAIMS
AND SETTLEMENT ADMINISTRATION COSTS**

The parties and Court-appointed Settlement Administrator, Smith Cochran Hicks PLLC (“SCH”), respectfully apply to the Court to approve the distribution of payment for 46 final and approved individual review option claims and settlement administration costs.

1. The approved Individual Review Option Claims in the amount of \$2,551,973 are detailed in the attached Schedule included as Exhibit 1, pursuant to Section 6.2.2.2 of the Amended Class Action Settlement Agreement (“ASA”) (Doc. 1163-1) approved by this Court’s Order Granting Final Approval of the Good Class Settlement and Entering Judgment (Doc. 1212).

Section 6.2.2.2 of the ASA provides as follows:

If after distribution of the Simple Claim Form Payments and issuance of the checks through the Check Distribution Process, and after accounting for payments for associated Administrative Expenses and Attorneys’ Fees and Litigation Expenses, and after full evaluation of the Individual Review Option claims, the Settlement Administrator determines that there are sufficient remaining assets to pay uncontested Individual Review

Option claims pending final review of contested Individual Review Option claims so that the payment of both uncontested and contested Individual Review Option claims is assured, the Settlement Administrator may seek permission from the Court to distribute payment for the approved uncontested Individual Review Option claims before completing the full evaluation of contested Individual Review Option claims. The Settlement Administrator may seek such permission by filing an application to distribute after providing reasonable notice to the Parties that includes the date on which the Settlement Administrator plans to file such application. The Parties shall have the right to submit responses to such application by the Settlement Administrator on the date the Settlement Administrator files the application. The Court may authorize or deny such distribution based on the evidence provided by the Settlement Administrator and taking into account the responses provided the Parties.

SCH keeps the parties and the Court aware on a regular basis of the status of its efforts to administer the settlement in this action. The parties are aware that SCH is making this application on this date and join in the request for Court approval of the distribution outlined on the attached Schedule.

2. This application for payment includes 4 Individual Review Option Medical Claims and 3 Individual Review Option Pregnancy Claims. All Individual Review Option Medical and Pregnancy claimants were submitted to The Centers for Medicare and Medicaid (“CMS”) for Verification of Enrollment (“VOE”). The CMS VOE results indicated that none of the Individual Review Option Medical and Pregnancy claimants included in this application matched any enrollment records in CMS systems.

3. The West Virginia Department of Health and Human Services, Bureau for Medical Services (“BMS”) in a written communication, dated October 30, 2018, represented that it has no legal right to, and will not pursue, a Medicaid subrogation lien with respect to any of the Individual Review Option Medical and Pregnancy Claims where the settlement amount for the claim is below the applicable threshold of \$20,000 for instituting recovery actions. Six of the Individual Review Option Medical and Pregnancy Claims included in this application are below the applicable threshold. There is one Individual Review Option Medical Claim in this

application that exceeds the BMS recovery threshold of \$20,000. As directed by BMS, this claimant was submitted to Health Management Systems (“HMS”), the vendor that handles their subrogation, to determine if BMS has any recovery interest in the claim. HMS results indicated that there were no claims paid by Medicaid for this claimant and has provided a release and discharge from all liability regarding any Medicaid subrogation lien for this claimant.

Accordingly, all potential lien obligations with respect to Medicare as administered by CMS and with respect to Medicaid have been resolved for the Individual Review Option Medical and Pregnancy claimants in this application.

4. The Settlement Administration fees for the Individual Review Option claims included in this application total \$8,450. The parties have reviewed this amount and conclude that the amount requested is in accordance with the fee schedule outlined in the Renewed Joint Motion for Preliminary Approval and the engagement document provided to the Court on July 5, 2018. The parties request the Court’s approval to pay these fees from the Contingent Fund as specified in the ASA.

For the foregoing reasons, the parties and SCH apply to the Court for its approval under Section 6.2.2.2 of the ASA and Section XI of the Distribution Protocols to distribute funds by check for the uncontested Individual Review Option Claims and settlement administration fees as more fully described on the attached Schedule.

Respectfully submitted,

DATED: May 14, 2019

By:



John Jenkins

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SETTLEMENT ADMINISTRATOR

and

/s/ Van Bunch

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On Behalf of the Settling Parties

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CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiffs hereby certifies that on May 14, 2019, the foregoing
“**APPLICATION FOR APPROVAL TO PAY INDIVIDUAL REVIEW OPTION CLAIMS
AND SETTLEMENT ADMINISTRATION COSTS**” was served on all counsel of record
through the CM/ECF system which will send notification of the filing to all counsel of record.

Bonnett Fairbourn Friedman & Balint PC

/s/ Van Bunch

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